IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION

) Civil Action No.: 3:07-CV-02148
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ORDER
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This matter is before the Court pursuant to a Report and Recommendation submitted by United States Magistrate Judge Bristow Marchant, to whom it was referred for review under 28 U.S.C. § 1915 and this Court's Local Rules. Plaintiff brings this action against New Hill Top Apartments and State Farm Insurance (also referred to by Plaintiff as "Fire Claim Central"). Alleging negligence, Plaintiff seeks recovery in the amount of \$20,000.00 for injuries suffered when he fell from a balcony while visiting a friend at the New Hill Top Apartment Complex.

Plaintiff proceeds in this action *pro se*. This Court is required to construe such *pro se* pleadings liberally to allow for the development of a potentionally meritorious claim. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). *Pro se* pleadings are held to a lower standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). The Magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight and the responsibility for making a final

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determination remains with this Court. Matthews v. Weber, 423 U.S. 261, 270-271

(1976).

With regard to Plaintiff's instant action, the Magistrate recommends that the

District Court dismiss the complaint without prejudice and without issuance and service

of process. The Magistrate recommends dismissal based upon his determination that the

federal court lacks subject matter jurisdiction (federal question or diversity) over

Plaintiff's claims. See 28 U.S.C. §§ 1331, 1332. Plaintiff has not issued any objections to

the Magistrate's recommendation. Upon consideration of Plaintiff's factual allegations,

this Court is inclined to take the view of the Magistrate and finds that the Plaintiff has

failed to present any justiciable claims. This Court further observes that Plaintiff has also

filed an amended complaint. However, because Plaintiff's amended complaint does not

allege any additional facts, the amended complaint has failed to remedy the

aforementioned defects of Plaintiff's claims.

Having reviewed the entirety of this case, including the Magistrate's Report and

Recommendation, and Plaintiff's complaints, this Court approves the recommendation of

the magistrate. Accordingly, this action is hereby **DISMISSED** without prejudice and

without issuance and service of process.

IT IS SO ORDERED.

S/Matthew J. Perry, Jr.

Matthew J. Perry, Jr.

Senior United States District Judge

March 7

, 2008

Columbia, South Carolina

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